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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,697	08/07/2001	Barry D. Olson	CN-0102	1564

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EXAMINER

SIMONE, CATHERINE A

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/923,697

Applicant(s)

OLSON ET AL.

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 2, 2003 has been entered.

Drawings

2. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "divided into individual discrete portions resulting in cross sections of the one geometric shape having varying surface appearances with the geometric patterns extending

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inwardly from a surface of the material” in claim 1 is deemed vague and indefinite. Clarification is requested.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1, 2, 4, 6-9 and 12** are rejected under 35 U.S.C. 102(e) as being anticipated by Stecker (6,150,009).

Stecker discloses a decorative material comprising geometric patterns on a surface thereof wherein the geometric patterns (Fig. 2E, #20 and Fig. 3, #42) are formed from at least two contrasting thermoset compositions (see col. 7, lines 29-34 and col. 9, lines 10-14): (a) wherein the geometric patterns are three dimensional comprising at least one geometric shape divided into individual discrete portions resulting in cross sections of the one geometric shape having varying surface appearances with the geometric patterns extending inwardly from a surface of the material, and (b) wherein the visual appearance of the geometric patterns vary due to different cross sections of the one geometric shape of (a) being exposed on the surface of the material. Regarding **claim 2**, the geometric patterns (Fig. 2E, #20 and Fig. 3, #42) extend throughout interior portions of the decorative material. Regarding **claim 4**, the geometric patterns are other than in the form of stripes (Fig. 3, #42). Regarding **claim 6**, note an additional thermoset composition which is not present in the geometric patterns (see col. 9, lines 15-19).

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Regarding **claim 7**, note at least one of the molding compositions comprises an acrylic (see col. 10, lines 11-14). Regarding **claim 8**, note a filler which imparts flame retardation (see col. 6, lines 32-38). Regarding **claim 9**, the filler comprises alumina trihydrate (see col. 6, lines 44-45). Regarding **claim 12**, note the individual discrete portions of the one geometric shape are fused (see col. 9, lines 10-14).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 3 and 5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stecker (6,150,009).

Stecker discloses the claimed invention except for the geometric patterns comprising stripes or swirls. Normally, it is to be expected that a change in shape of the geometric patterns would be an unpatentable modification. Under some circumstances, however, changes such as shape may impart patentability to a product if the particular shape claimed produces a new and unexpected result which is different in kind and not merely in degree from the results of the prior art. *In re Dailey et al*, 149 USPQ 47 CCPA 1966.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to change the shape of the geometric patterns in Stecker to swirls and stripes. One skilled in the art would have been motivated to do so in order to form a

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decorative material, since it has been held that the change in shape or form of the geometric patterns would be an unpatentable modification absence of showing unexpected results.

Response to Arguments


9. Applicant's arguments with respect to claims 1-9 and 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

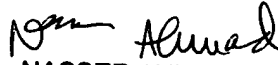
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703) 605-4297. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Catherine Simone
Examiner
Art Unit 1772

August 1, 2003


NASSER AHMAD
PRIMARY EXAMINER
Acting SPB